

AMENDED IN ASSEMBLY APRIL 15, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1492

Introduced by Assembly Member Baugh

February 28, 1997

~~An act to add Section 43000.7 to, and to repeal, add, and repeal Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of, the Health and Safety Code, and to repeal Section 9250.18 of the Vehicle Code, relating to air pollution. An act to amend Sections 44011 and 44014.5 of, and to add Section 44015.1 to, the Health and Safety Code, to add Sections 17053.75, 17053.76, and 23650 to the Revenue and Taxation Code, and to amend Section 4000.1 of, and to repeal Section 4000.7 of, the Vehicle Code, relating to air pollution.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1492, as amended, Baugh. Vehicle inspection and maintenance.

(1) Existing law exempts motor vehicles manufactured prior to the 1966 model-year from the motor vehicle inspection program.

This bill would instead exempt motor vehicles 30 model-years of age or older from the program.

(2) Existing law subjects new vehicles to the requirement for a biennial certificate of compliance commencing upon the 2nd renewal of the registration.

This bill would exempt those vehicles from the requirement for a certificate of compliance until the 4th renewal of the registration.

(3) The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would authorize a credit against those taxes for each taxable and income year beginning on or after January 1, 1997, of 25% of the amount paid or incurred during the taxable or income year for the purchase of specified equipment by a smog check station owner under a specified condition.

The bill would authorize a credit against the taxes imposed by the Personal Income Tax Law for each taxable year beginning on or after January 1, 1997, of 50% of the amount paid or incurred during the taxable or income year for the excess cost, as specified, of repairing a gross polluting vehicle.

(4) The bill would require the Department of Consumer Affairs to transmit to the Legislature, not later than July 1, 1998, prescribed information relating to the smog check program and require the department to issue repair cost waivers to owners of gross polluters until the Legislature enacts a low-income car-owner assistance program.

~~(1) Existing law, the vehicle inspection and maintenance (smog check) program, was extensively revised in 1994 to, among other things, include testing at test-only stations, require additional tests at smog check stations, and revise repair cost limits and provisions relative to the use of remote sensing to identify gross polluters.~~

~~This bill would delete the changes made commencing in 1994, restore former provisions of the vehicle inspection and maintenance law, and make related changes. Since the bill would revise provisions imposing misdemeanor penalties for violations, the bill would create a state-mandated local program by changing the definitions of crimes.~~

~~The bill would also provide that no vehicle shall be subject to any emission standard that varies from the standards applicable to the vehicle at the time that the vehicle was manufactured, or to any standard for tailpipe emissions that is stricter than the standards applicable pursuant to federal~~

law. The bill would generally prohibit any regulation from being adopted or revised by the State Air Resources Board pertaining to motor vehicle emissions until it has been submitted to the Legislature and the Legislature has enacted a statute authorizing the adoption of the regulation. The bill would prohibit the vehicle inspection and maintenance program from requiring roadside inspections or the confiscation of any vehicle. The bill would also state the intent of the Legislature that no further revisions be made to the program until valid scientific tests have been done to verify their effectiveness in reducing pollution while lacking toxic effects or causing harm to vehicle components.

The bill would repeal those provisions on January 1, 2005, unless a later enacted statute deletes or extends that date.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes *no*.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 43000.7 is added to the Health~~
- 2 *SECTION 1. The Legislature hereby finds and*
- 3 *declares all of the following:*
- 4 *(a) Since the adoption of the federal Clean Air Act in*
- 5 *1972, California has made great strides in improving air*
- 6 *quality.*
- 7 *(b) To comply with federal air quality standards by the*
- 8 *year 2010, and to meet every Californian's desire for*
- 9 *cleaner air, further reductions in air pollution are*
- 10 *necessary.*
- 11 *(c) California's stationary source industries and*
- 12 *businesses are already among the cleanest in the world,*
- 13 *and tighter regulations will achieve few additional*
- 14 *pollution reductions.*

1 (d) Mobile sources generate roughly one-half of all the
2 remaining air pollution in this state, and the worst
3 polluting 10 to 15 percent of automobiles generate
4 one-half of all the pollution caused by mobile sources.

5 (e) Motor vehicle inspection and maintenance
6 programs can significantly reduce vehicle emissions and
7 thereby contribute to the attainment of clean air
8 standards.

9 (f) Any motor vehicle inspection and maintenance
10 program should provide the maximum possible pollution
11 reduction at a minimum cost and inconvenience to the
12 people of the state.

13 (g) The Legislature recognizes that where new
14 government regulations impose significant costs on
15 businesses or individuals, the government has a
16 responsibility to ensure that the burden of compliance
17 does not fall unfairly on any one group or class of people.

18 SEC. 2. Section 44011 of the Health and Safety Code
19 is amended to read:

20 44011. (a) All motor vehicles powered by internal
21 combustion engines ~~which~~ that are registered within an
22 area designated for program coverage shall be required
23 biennially to obtain a certificate of compliance or
24 noncompliance, except for all of the following:

25 (1) Every motorcycle, and every diesel-powered
26 vehicle, until the department, pursuant to Section 44012,
27 implements test procedures applicable to motorcycles or
28 to diesel-powered vehicles, or both.

29 (2) Any motor vehicle ~~which~~ that has been issued a
30 certificate of compliance or noncompliance or an
31 emission cost waiver upon a change of ownership or initial
32 registration in this state during the preceding six months;
33 ~~or which has been issued a certificate of exemption~~
34 ~~pursuant to Section 4000.6 or 4000.7 of the Vehicle Code.~~

35 (3) Any motor vehicle ~~manufactured prior to the 1966~~
36 ~~model-year 30 model-years of age or older.~~

37 (4) Any ~~other~~ motor vehicle ~~which~~ that the
38 department determines would present prohibitive
39 inspection or repair problems.

1 (5) Any vehicle registered to the owner of a fleet
2 licensed pursuant to Section 44020 if the vehicle is
3 garaged exclusively outside the area included in program
4 coverage, and is not primarily operated inside the area
5 included in program coverage.

6 (6) *Any model of motor vehicle that the bureau*
7 *exempts based on the emitter profile of the vehicle. The*
8 *emitter profile may include, but is not limited to, vehicle*
9 *make, model, year of manufacture, engine type, and past*
10 *smog check history.*

11 (7) *Any new motor vehicle, prior to the fourth*
12 *renewal of its registration.*

13 (b) Vehicles designated for program coverage in
14 enhanced areas shall be required to obtain inspections
15 from appropriate smog check stations operating in
16 enhanced areas.

17 *SEC. 3. Section 44014.5 of the Health and Safety Code*
18 *is amended to read:*

19 44014.5. (a) The enhanced program shall provide for
20 the testing and retesting of vehicles in accordance with
21 Sections 44010.5; *and* 44014.2; and this section.

22 (b) The repair of vehicles at test-only facilities shall be
23 prohibited, except that the minor repair of components
24 damaged by station personnel during inspection at the
25 station, any minor repair ~~which~~ *that* is necessary for the
26 safe operation of a vehicle while at a station, or other
27 minor repairs, such as the reconnection of hoses or
28 vacuum lines, may be undertaken at no charge to the
29 vehicle owner or operator if authorized in advance in
30 writing by the department.

31 (c) The department shall provide for the distribution
32 to consumers by test-only facilities of a list, compiled by
33 region, of smog check stations licensed to make repairs of
34 vehicular emission control systems. A test-only facility
35 shall not refer a vehicle owner to any particular provider
36 of vehicle repair services.

37 (d) The department shall establish standards for
38 training, equipment, performance, or data collection for
39 test-only facilities.

(e) The department shall prohibit test-only facilities from engaging in other business activities that represent a conflict of interest, as determined by the department.

(f) The test-only facility may charge a fee, established by the department, sufficient to cover the facility's cost to perform the tests or services, including, but not limited to, referee services and the issuance of waivers and hardship extensions required by this chapter. In addition, the station shall charge and collect the certificate fee established pursuant to Section 44060. This subdivision shall apply only to facilities contracted for pursuant to subdivision (e) of Section 44010.5.

(g) The department shall ensure that there is a sufficient number of test-only facilities to provide convenient testing for the following vehicles:

(1) All vehicles identified and confirmed as gross polluters pursuant to Section 44081 and Section 27156 of the Vehicle Code.

(2) All vehicles identified by a smog check station prior to repairs as having been tampered with.

(3) (A) Vehicles initially identified as gross polluters by a smog check station licensed as a test-and-repair station and certified pursuant to Section 44014.2 may be issued a certificate of compliance by a test-only facility or by the licensed smog check station certified pursuant to Section 44014.2 at which they were initially identified as a gross polluter.

(B) For purposes of this section, the department may conduct a pilot program to allow vehicles initially identified as gross polluters to be repaired and issued a certificate of compliance by a facility licensed and certified pursuant to Section 44014.2. For the purposes of this pilot program, the department may adopt regulations imposing additional station requirements.

(4) All vehicles designated by the department pursuant to Sections 44014.7 and 44020.

(5) Vehicles issued an economic hardship extension in the previous biennial inspection of ~~that~~ the vehicle.

(h) The department shall provide a sufficient number of test-only facilities authorized to perform referee

functions to provide convenient testing for those vehicles that are required to report to, and receive a certificate of compliance from, a test-only facility by this chapter, including all of the following:

(1) All vehicles seeking to utilize state-operated financial assistance or inclusion in authorized scrap programs.

(2) All vehicles unable to obtain a certificate of compliance from a licensed smog check station pursuant to subdivision (c) of Section 44015.

(3) Any other vehicles that may be designated by the department.

(i) (1) Gross polluters shall be referred to a test-only facility, or a test-and-repair station that is both licensed and certified pursuant to Sections 44014 and 44014.2 and is participating in the pilot program pursuant to subparagraph (B) of paragraph (3) of subdivision (g), for a postrepair inspection and retest pursuant to subdivision (g). Simply passing the emissions test shall not be a sufficient condition for receiving a certificate of compliance. A certificate of compliance shall only be issued to a vehicle ~~which~~ that does not have any defects with its emission control system or any defects ~~which~~ that could lead to damage of its emission control system, as provided in regulations adopted by the department.

(2) The department shall require all vehicles ~~which~~ that are tested pursuant to this chapter and found to be gross polluters, or ~~which~~ are found to have been tampered with, to be tested annually at a test-only facility for at least two, but not more than five, consecutive years, as the department determines to be necessary to ensure that the program will comply with Environmental Protection Agency performance standards.

SEC. 4. Section 44015.1 is added to the Health and Safety Code, to read:

44015.1. Notwithstanding subdivision (d) of Section 44015, the bureau shall issue repair cost waivers to owners of gross polluters who cannot repair their vehicles within the applicable cost limit prescribed in subdivision (a) or (b) of Section 44017, until a low-income car-owner

1 assistance program has been enacted by the Legislature
2 and is in effect.

3 SEC. 5. Section 17053.75 is added to the Revenue and
4 Taxation Code, to read:

5 17053.75. (a) For each taxable year beginning on or
6 after January 1, 1997, there shall be allowed as a credit
7 against the "net tax," as defined in Section 17039, an
8 amount equal to 50 percent of the amount paid or
9 incurred during the taxable year for the cost of repairing
10 a motor vehicle that is a gross polluter, as defined in
11 Section 39032.5 of the Health and Safety Code, in excess
12 of the applicable amount prescribed in subdivision (a) or
13 (b) of Section 44017 of the Health and Safety Code,
14 necessary to bring the vehicle into compliance with
15 applicable emission standards.

16 (b) In the case where the credit allowed by this section
17 exceeds the "net tax," the excess may be carried over to
18 reduce the "net tax" in the following year, and
19 succeeding years if necessary, until the credit is
20 exhausted.

21 SEC. 6. Section 17053.76 is added to the Revenue and
22 Taxation Code, to read:

23 17053.76. (a) For each taxable year beginning on or
24 after January 1, 1998, there shall be allowed as a credit
25 against the "net tax," as defined in Section 17039, an
26 amount equal to 25 percent of the amount paid or
27 incurred during the taxable year for the purchase by the
28 owner of a smog check station of equipment necessary to
29 comply with Chapter 5 (commencing with Section
30 44000) of Part 5 of Division 26 of the Health and Safety
31 Code.

32 (b) In the case where the credit allowed by this section
33 exceeds the "net tax," the excess may be carried over to
34 reduce the "net tax" in the following year, and
35 succeeding years if necessary, until the credit is
36 exhausted.

37 (c) This section shall become operative on July 1, 1998,
38 only if the Department of Consumer Affairs has not
39 complied with subdivision (b) of Section 9 of the act that
40 added this section.

1 SEC. 7. Section 23650 is added to the Revenue and
2 Taxation Code, to read:

3 23650. (a) For each income year beginning on or
4 after January 1, 1998, there shall be allowed as a credit
5 against the "tax," as defined in Section 23036, an amount
6 equal to 25 percent of the amount paid or incurred during
7 the income year for the purchase by the owner of a smog
8 check station of equipment necessary to comply with
9 Chapter 5 (commencing with Section 44000) of Part 5 of
10 Division 26 of the Health and Safety Code.

11 (b) In the case where the credit allowed by this section
12 exceeds the "tax," the excess may be carried over to
13 reduce the "tax" in the following year, and succeeding
14 years if necessary, until the credit is exhausted.

15 (c) This section shall become operative on July 1, 1998,
16 only if the Department of Consumer Affairs has not
17 complied with subdivision (b) of Section 9 of the act that
18 added this section.

19 SEC. 8. Section 4000.1 of the Vehicle Code is amended
20 to read:

21 4000.1. (a) Except as otherwise provided in
22 subdivision (b), (c), or (d) of this section, or subdivision
23 (b) of Section 43654 of the Health and Safety Code, the
24 department shall require, upon initial registration, and
25 upon transfer of ownership and registration, of any motor
26 vehicle subject to Part 5 (commencing with Section
27 43000) of Division 26 of the Health and Safety Code, and
28 upon registration of a motor vehicle previously registered
29 outside this state ~~which~~ that is subject to those provisions
30 of the Health and Safety Code, a valid certificate of
31 compliance or a certificate of noncompliance, as
32 appropriate, issued in accordance with Section 44015 of
33 the Health and Safety Code.

34 (b) With respect to new vehicles certified pursuant to
35 Chapter 2 (commencing with Section 43100) of Part 5 of
36 Division 26 of the Health and Safety Code, the
37 department shall accept a statement completed pursuant
38 to subdivision (b) of Section 24007 in lieu of the certificate
39 of compliance.

(c) For purposes of determining the validity of a certificate of compliance or noncompliance submitted in compliance with ~~the requirements of~~ this section, the definitions of new and used motor vehicle contained in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code shall control.

(d) Subdivision (a) does not apply to a transfer of ownership and registration under any of the following circumstances:

(1) In any *air pollution control or air quality management* district in which biennial certification is required and a valid certificate was issued in connection with the most recent renewal of registration of the vehicle, and the transfer occurred not more than 60 days following the date by which that renewal of registration was required.

(2) The transferor is either the parent, grandparent, sibling, child, grandchild, or spouse of the transferee.

(3) A vehicle registered to a sole proprietorship is transferred to the proprietor as owner.

(4) The transfer is between companies whose principal business is leasing vehicles, if there is no change in the lessee or operator of the vehicle or between the lessor and the person who has been, for at least one year, the lessee's operator of the vehicle.

(5) The transfer is between the lessor and lessee of the vehicle, if there is no change in the lessee or operator of the vehicle.

(6) The vehicle ~~was manufactured prior to the 1966 model year~~ is 30 model-years of age or older.

(7) Any new motor vehicle prior to the fourth renewal of its registration.

(e) The State Air Resources Board, under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, may exempt designated classifications of motor vehicles from subdivision (a) as it ~~deems~~ *determines to be* necessary, and shall notify the department of that action.

(f) Subdivision (a) does not apply to a motor vehicle when an additional individual is added as a registered owner of the vehicle.

SEC. 9. Section 4000.7 of the Vehicle Code is repealed.

~~4000.7. (a) For purposes of subdivision (a) of Section 4000.3, for any vehicle which is registered for the first time in this state on or after January 1, 1994, the first certificate of compliance shall be required upon the second renewal of its registration.~~

~~(b) (1) Commencing not later than October 1, 1996, at the time of application and payment for the second renewal of the registration of a motor vehicle that was first sold as new in California on or after January 1, 1994, and which is subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, the department shall solicit an additional payment which, at the option of the applicant, may be made to the department. The Department of Consumer Affairs shall determine the amount of the additional payment, but the amount shall not exceed fifty dollars (\$50). In soliciting the additional payment in the application for the second renewal, the department shall include a brief summary of the air quality benefits being achieved by the inspection and maintenance and high-polluter repair or removal programs. The Legislature hereby finds and declares that the payment is in the nature of a donation for purposes of the high-polluter repair or removal program established pursuant to Article 9 (commencing with Section 44090), and the accelerated light duty vehicle retirement program established pursuant to Article 10 (commencing with Section 44100) of Chapter 5 of Part 5 of Division 26 of the Health and Safety Code.~~

~~(2) (A) On a monthly basis, the department shall transmit all payments received pursuant to paragraph (1), including any accrued interest, to the Treasurer for deposit in the High Polluter Repair or Removal Account created pursuant to subdivision (a) of Section 44091 of the Health and Safety Code, for expenditure, upon appropriation by the Legislature, by the Department of Consumer Affairs pursuant to Article 9 (commencing~~

1 ~~with Section 44090) and Article 10 (commencing with~~
2 ~~Section 44100) of Chapter 5 of Part 5 of Division 26 of the~~
3 ~~Health and Safety Code.~~

4 ~~(B) The department and the Department of~~
5 ~~Consumer Affairs, by interagency agreement, shall~~
6 ~~establish a procedure for the Department of Consumer~~
7 ~~Affairs to reimburse the department for its reasonable~~
8 ~~costs incurred in collecting the payments received~~
9 ~~pursuant to paragraph (1).~~

10 ~~(3) (A) Upon receipt of a payment pursuant to~~
11 ~~paragraph (1), the department shall mark the record of~~
12 ~~the subject vehicle with an exemption from the~~
13 ~~requirements of subdivision (a) of Section 4000.3. The~~
14 ~~exemption shall be valid for the first biennial inspection~~
15 ~~period, and shall have the same force and effect as a~~
16 ~~certificate of compliance issued in accordance with~~
17 ~~Section 44015 of the Health and Safety Code. The~~
18 ~~exemption shall be void if the title to, or any interest in,~~
19 ~~the vehicle is transferred pursuant to Section 5600.~~

20 ~~(B) The department shall collect a fee at the time of~~
21 ~~the payment pursuant to paragraph (1) for marking the~~
22 ~~record with an exemption which is equal to the fee that~~
23 ~~is charged for the issuance of a certificate of compliance.~~
24 ~~All fee revenue received pursuant to this subparagraph~~
25 ~~shall be deposited in the Vehicle Inspection and Repair~~
26 ~~Fund and be available for purposes of administering and~~
27 ~~enforcing the vehicle inspection and maintenance~~
28 ~~program.~~

29 ~~(4) Notwithstanding paragraph (1) of subdivision (b),~~
30 ~~the provisions of Section 4000.6 in existence on December~~
31 ~~31, 1995, authorizing an optional additional payment at~~
32 ~~the time of application for the initial registration for a new~~
33 ~~motor vehicle shall continue in effect until October 1,~~
34 ~~1996.~~

35 *SEC. 10. The Department of Consumer Affairs shall*
36 *do all of the following:*

37 *(a) Recommend to the Legislature, not later than July*
38 *1, 1998, a program to assist low-income car owners in*
39 *meeting their Smog Check II obligations.*

1 (b) Recommend to the Legislature a program to
2 defray the cost of new equipment purchases necessary for
3 smog check station owners to meet the requirements of
4 Smog Check II, including, but not limited to,
5 dynamometers.

6 (c) Provide to the Legislature a study showing the
7 correlation between gross polluters who fail the smog test
8 because of hydrocarbon emissions and gross polluters
9 who fail the test for nitrous oxide emissions.

10 (d) Develop and transmit to the Legislature a white
11 paper on the future of the smog check program after
12 2005, addressing which techniques and technologies will
13 likely be available for emissions testing, and discussing the
14 advantages and disadvantages of each.

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<p>All matter omitted in this version of the bill appears in the bill as introduced in the Assembly, February 28, 1997 (JR 11)</p>
